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DEPARTMENT OF COMMERCE

International Trade Administration

[C-560-825]

Certain Frozen Warmwater Shrimp from the Republic of Indonesia: Final Negative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are not being provided to producers and/or exporters of certain frozen warmwater shrimp (frozen shrimp) from the Republic of Indonesia (Indonesia).

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Gene Calvert, Jun Jack Zhao, or Emily Halle, AD/CVD Operations, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586, (202) 482-1396, or (202) 482-0176, respectively.

Background

The petitioner in this investigation is the Coalition of Gulf Shrimp Industries (Petitioner).<sup>1</sup> This investigation covers 28 government programs. In addition to the Government of Indonesia (GOI), the respondents in this investigation are (1) PT. Central Proteinaprima and

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<sup>1</sup> The members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors, Inc.; Bluewater Shrimp Company, Inc.; Carson & Co., Inc.; C.F. Gollott & Sons Seafood, Inc.; Dean Blanchard Seafood, Inc.; Dominick Seafood; Fisherman's Reef Packing Plant; Golden Gulf Coast Pkg. Co., Inc. (and Gollott's Oil Dock & Ice House); Graham Fisheries, Inc.; Graham Shrimp, Inc.; Gulf Crown Seafood Co., Inc.; Gulf Fish Inc.; Gulf Island Shrimp & Seafood, LLC; Gulf Pride Enterprises, Inc.; Hi-Seas of Dulac, Inc.; Indian Ridge Shrimp Co.; JBS Packing Co., Inc.; Lafitte Frozen Foods Corp.; M&M Shrimp (Biloxi Freezing and Processing); Ocean Springs Seafood Market, Inc.; Paul Piazza & Sons, Inc.; R.A. Lesso Brokerage Co., Inc.; Sea Pearl Seafood Co., Inc.; Smith and Sons Seafood; Tidelands Seafood Co., Inc.; Tommy's Seafood; Vincent Piazza & Sons Seafood, Inc.; Wood's Fisheries; Mariah Jade Shrimp Company, LLC; David Chauvin's Seafood Company, LLC; and Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries).

PT. Central Pertiwi Bahari, along with their affiliated companies; and (2) PT. First Marine Seafoods and its cross-owned affiliate, PT. Khom Foods.

#### Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2011, through December 31, 2011.

#### Case History

The events that have occurred since the Department published the *Preliminary Determination* on June 4, 2013,<sup>2</sup> are discussed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, “Issues and Decision Memorandum for the Final Negative Determination in the Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from the Republic of Indonesia” (Decision Memorandum), which is dated concurrently with and hereby adopted by this notice.

#### Scope Comments

On March 28, 2013, Petitioner asked the Department to clarify that the scope of this investigation does not include brine-frozen shrimp.<sup>3</sup> We have addressed this request and comments thereon in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, “Certain Frozen Warmwater Shrimp from Ecuador, India, Indonesia, Malaysia, People’s Republic of China, Thailand, and Socialist Republic of Vietnam – Final Scope Memorandum Regarding Onboard Brine-Frozen Shrimp” (Scope Memorandum), which is dated concurrently with and hereby adopted by this notice.

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<sup>2</sup> See *Certain Frozen Warmwater Shrimp from Indonesia: Negative Preliminary Countervailing Duty Determination*, 78 FR 33349 (June 4, 2013) (*Preliminary Determination*), and the accompanying Preliminary Decision Memorandum.

<sup>3</sup> See Letter from Petitioner, “Countervailing Duty Investigation on Certain Frozen Warmwater Shrimp from Indonesia (C-560-825) – Request for Scope Clarification” (March 28, 2013).

### Scope of the Investigation

The products covered by this investigation are certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size. See Appendix I for a complete description of the scope of this investigation.

### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Decision Memorandum. A list of subsidy programs and the issues that parties have raised, and to which we responded in the Decision Memorandum, is attached to this notice as Appendix II.

The Decision and Scope Memoranda are public documents and are on file electronically via IA ACCESS. IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, complete versions of the Decision and Scope Memoranda can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed and the electronic versions of these memoranda are identical in content.

### Final Determination

<b>Company</b>	<b>Subsidy Rate</b>
PT. Central Pertiwi Bahari PT. Central Proteinaprima Tbk	0.23 percent ( <i>de minimis</i> )
PT. First Marine Seafoods PT. Khom Foods	0.27 percent ( <i>de minimis</i> )
All Others	0.25 percent ( <i>de minimis</i> )

For this final determination, we have calculated *de minimis* total net countervailable subsidy rates for the individually investigated producers/exporters of the subject merchandise . The all others rate is also *de minimis*. Therefore, we determine that countervailable subsidies are not being provided to producers and/or exporters in Indonesia with respect to frozen shrimp. Because we have reached a final negative determination, consistent with section 705(c)(2) of the Tariff Act of 1930, as amended (the Act), we are terminating this investigation.

In the *Preliminary Determination*, the total net countervailable subsidy rates for the individually examined respondents were *de minimis* and, therefore, we did not suspend liquidation.<sup>4</sup> Because the rates for the respondents remain *de minimis*, we are not directing U.S. Customs and Border Protection to suspend liquidation of entries of subject merchandise.

#### International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the International Trade Commission of our determination.

#### Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

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<sup>4</sup> See *Preliminary Determination*, 78 FR at 33349.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the  
Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

August 12, 2013  
Date

## APPENDIX I

### **Scope of the Investigation**

The products covered by this investigation are certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>5</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size.

The frozen warmwater shrimp and prawn products included in the scope, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope. In addition, food preparations (including dusted shrimp), which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope. Excluded from the scope are: (1) Breaded shrimp and prawns; (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled; (4) shrimp and prawns in prepared meals; (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns; and (7) certain “battered shrimp” (see below).

“Battered shrimp” is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

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<sup>5</sup> “Tails” in this context means the tail fan, which includes the telson and the uropods.

The products included in the scope of this investigation are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30 and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.

## APPENDIX II

### **Issues and Decision Memorandum**

#### **I. Summary**

#### **II. Background**

#### **III. Subsidy Valuation Information**

##### **A. Period of Investigation**

##### **B. Allocation Period**

##### **C. Attribution of Subsidies**

##### **D. Application of Section 771B of the Act**

##### **E. Denominators**

##### **F. Loan Benchmarks and Discount Rate Benchmarks for Allocating Non-Recurring Subsidies**

#### **IV. Analysis of Programs**

##### **A. Programs Determined To Be Countervailable**

1. Export Financing from the Indonesia Export-Import Bank
2. Article 31E Income Tax Reduction

##### **B. Programs Determined To Be Not Countervailable**

1. Import Duty Exemptions for Raw Materials Imported into Bonded Zones
2. VAT Exemptions for Raw Materials and Equipment Imported into Bonded Zones
3. VAT Exemptions for Purchases of Fish Feed

##### **C. Programs Determined To Have Been Not Used By Respondents or To Not Confer a Benefit During the POI**

1. Import Duty Exemptions for Equipment Imported into Bonded Zones
2. Debt Forgiveness from the Government of Indonesia
3. Government Provision of Loans to the Indonesian Fishing and Aquaculture Sector
4. Government Loans to the Indonesian Fishing and Aquaculture Sector through Bank Rakyat Indonesia
5. Government Provision of Electricity to the Indonesian Fishing and Aquaculture Sector for LTAR
6. Government Provision of Goods and Services Used to Promote the Indonesian Fishing and Aquaculture Sector for LTAR
7. Government Provision of Land to the Indonesian Fishing and Aquaculture Sector for LTAR
8. Government Provision of Shrimp Breeding Stock and Fry for LTAR
9. Tax Incentives from the Capital Investment Coordinating Board
10. Government Provision of Grants to the Indonesian Fishing and Aquaculture Sector
11. Government Provision of Grants for the Lampung Shrimp Pond Project



12. Export Credit Insurance
13. Export Credit Guarantees
14. Export Ban on Raw Shrimp
15. Government Provision of Assistance through the Aquaculture Intensification (INBUDKAN) Program
16. Government Provision of Assistance through the Fish Culture Intensification (FCIP) Program
17. Government Provision of Assistance through the Revitalisation of Aquaculture Development (RPPB) Program
18. Government Provision of Clean Water Facilities to the Indonesian Fishery Sector for LTAR
19. Government Provision of Fishing Boats for LTAR
20. Government Provision of Cold Storage Facilities for LTAR
21. Government Provision of Shrimp Breeding Stock and Seed for LTAR
22. Government Loans to Coastal Community Businesses under the Project of Coastal Community Empowerment/Loans for the Economic Development of Coastal Communities (PEMP) Program
23. Government Provision of Land to Brackish-Water Aquaculture Farms for LTAR

## **V. Analysis of Comments**

### *General Issues*

- Comment 1: The Application of Section 771B of the Act (the Agricultural Processing Provision) to Subsidies to Fresh Shrimp Farmers
- Comment 2: The Attribution of Fresh Shrimp Subsidies to Respondent Processors; Use of a Simple or Weighted Average
- Comment 3: The Attribution of Fresh Shrimp Subsidies to Respondent Processors: Proper Sales Denominator

### *Cross-Ownership*

- Comment 4: CPP and the Plasma Farmers
- Comment 5: CPP and CWS
- Comment 6: Windu Mantap and its Cross-Owned Companies

### *Debt Forgiveness*

- Comment 7: CPP's 2001 Restructuring Agreement
- Comment 8: CPP's Repayment Terms
- Comment 9: Forgiven Loans to CPP's Plasma Farmers
- Comment 10: CPP's Investment Commitments for the Shrimp Pond Revitalization Project
- Comment 11: The Indonesia Ex-Im Bank's Waiver for CPP

### *Export Financing*

- Comment 12: CPP's Export Financing

*Income Tax Reduction*

Comment 13: The Article 31E Income Tax Reduction Program

*VAT Exemptions for Strategic Goods*

Comment 14: VAT Exemptions are Countervailable in their Entirety

Comment 15: Time Value of Money Benefits from VAT Exemptions

*Import Duty Exemptions for Bonded Zones*

Comment 16: Import Duty Exemptions for Equipment Imported into Bonded Zones

Comment 17: Import Duty Exemptions for Raw Materials Imported into Bonded Zones

*VAT Exemptions for Bonded Zones*

Comment 18: VAT Exemptions for Equipment and Raw Materials Imported into Bonded Zones

*Land*

Comment 19: First Marine's Land Lease at the Jakarta Fishery Port

Comment 20: Land Provided to CPP and CWS by KIM

*Creditworthiness*

Comment 21: The Department's Preliminary Determination Regarding CPP's  
Uncreditworthiness During 2011

Comment 22: Petitioner's Other Uncreditworthiness Allegations

*Voluntary Respondents*

Comment 23: The Department's Denial of Bumi Menara's Voluntary Respondent Request

*Miscellaneous*

Comment 24: CPP's Minor Corrections

**VI. Recommendation**

**VII.**

**VIII.**

**IX. [FR Doc. 2013-20164 Filed 08/16/2013 at 8:45 am; Publication Date: 08/19/2013]**